IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6814 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

WELLFAB ENGINEERING

Versus

DIRECTOR OF AGRICULTURE

Appearance:

MR PK JANI for the Petitioner.

Mr. I.M.Pandya, ASSTT. GOVERNMENT PLEADER for the Respondent.

CORAM : MR.JUSTICE KUNDAN SINGH

Date of decision: 10/10/2001

ORAL JUDGEMENT

This petition has been filed for quashing and setting aside the order dated 2nd August, 2001 passed by the respondent Director of Agriculture and for a direction to the respondent to continue approval granted to the petitioner firm for supply of agricultural

implements.

2. It is not in dispute that the petitioner firm is an approved supplier and it was authorised to supply agricultural implements to various Government agencies pursuant to the orders being placed by the agencies. The respondent passed the order dated 2nd August, 2001 whereby the approval given to the petitioner firm for the supply of the articles has been cancelled with immediate effect. Therefore, the present petition.

3. The contention of the learned counsel for the petitioner is that the petitioner being an approved supplier has not been given an opportunity of hearing and without issuing any show cause notice, the approval has been cancelled by the respondent. The respondent has filed affidavit-in-reply from which it appears that no show cause notice has been issued nor any opportunity of hearing was given to the petitioner before passing the impugned order. At the most, the respondent could have suspended the approval with immediate effect and no notice could have been issued for cancellation and an opportunity of hearing is also required to be given to the petitioner under law. But no opportunity of hearing has been given. As such, the order passed by the respondent is illegal and not sustainable in the eye of law.

4. I have considered the contentions raised by the learned counsel for the parties and also perused the relevant papers on record. It is mentioned in the affidavit-in-reply filed by the Joint Director of Agriculture that the petitioner was supplying agricultural implemental in the earthquake package scheme. The department came to know after several complaints that the quality of the goods supplied by the petitioner was not in consonance with the specifications. The respondent has cancelled the contract without giving any notice. It appears that there was no need for giving any notice as the petitioner supplied articles which were of sub-standard quality and were not as per specifications. It is also mentioned that the plea of principles of natural justice cannot be taken into consideration. The supply made by the petitioner was of sub-standard quality and not as per the specifications for which orders were placed. Due to irregularities committed by the petitioner, the approval has been cancelled which is legal, just and proper.

5. The learned counsel for the petitioner pointed out from the asserations made in the rejoinder

affidavit that the articles supplied by the petitioner were not of sub-standard quality and they were approved by the concerned authorities. Even if it is assumed for the sake of argument that the some articles supplied by the petitioner were of sub-standard quality, but it does not mean that the respondent was authorised to pass cancellation of approval without giving an opportunity of hearing to the petitioner and that is in violation of principles of natural justice. Apparently, the order passed by the respondent is illegal and violative of principles of natural justice. Therefore, the impugned order is liable to be quashed and set aside being illegal, arbitrary and violative of principles of natural justice.

6. In view of the above, this petition deserves to be allowed and is accordingly allowed. The impugned order dated 2nd August, 2001 passed by the respondent is hereby quashed and set aside. However, the respondent is at liberty to take appropriate action in accordance with law for cancellation of approval order, after giving a show cause notice and after giving an opportunity of hearing. It is also stated by the learned counsel for the petitioner that the petitioner had already supplied various agricultural implements to various government agencies and those articles have already been received and utilised by those agencies, but the respondent has withheld the amount of those article supplied by the petitioner firm. If it is so, the petitioner may approach the authority concerned for the amount of those agricultural implements which were supplied for which the payment has not been made. In case, the petitioner moves the authority concerned, the authority concerned is directed to decide the application of the petitioner for payment of the articles already supplied by the petitioner and utilised by different agencies, in accordance with law, within a period of one month from the date of such application, after giving an opportunity of hearing. Rule is made absolute to the aforesaid extent with no order as to costs.

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